

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Ronald & Julie Peiffer,
Appellants,

v.

Allamakee County Board of Review,
Appellee.

ORDER

Docket No. 13-03-0096
Parcel No. 1724356017

On January 9, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Ronald and Julie Peiffer were self-represented. Attorney Brett Ryan of Watson & Ryan, PLC, Council Bluffs, represented the Board of Review. Both parties submitted evidence in support of their position. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Ronald and Julie Peiffer are owners of a residential one-story dwelling located at 139 S 1st Street, Harpers Ferry, Iowa. According to the property record card, the property was built in 2010, has 1831 square feet of living area and a full basement with 1532 square feet of living-quarters finish. (Exhibits 3 & A). It also has an 1147-square-foot attached garage, two decks, and a patio. The dwelling has a good quality grade (3+05) and is in normal condition. Its site is a 0.148-acre riverfront property on the Mississippi River.

The Peiffers protested the property's January 1, 2013, assessment of \$323,400, representing \$58,100 in land value and \$265,300 in improvement value, to the Allamakee County Board of Review. They claimed the property's assessment was not equitable compared to like properties in the taxing jurisdiction; that the property was assessed for more than the value authorized by law; that there was

an error in the assessment; that there was fraud in the assessment; and that there has been a downward change in the value since the last assessment under Iowa Code sections 441.37(1)(a)(1, 2, 4, 5) and 441.37(1)(b). The Peiffers essentially reiterated their market value claim in the error section of the petition. However, in their fraud claim, it appears they contend there was a measurement error in the square feet of living area. Additionally, because the ground of downward change is only appropriately pled in a non-assessment or “interim” year, we do not consider this basis for relief. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993).

The Board of Review denied the protest.

The Peiffers then filed their appeal with this Board. The gist of their claim is that the property is assessed for more than market value, and they believe there is an error in the property’s measurement. They assert \$237,100 is the actual value and fair assessment of the subject property.

The Peiffers submitted numerous exhibits which list what they contend are all of the sales in Allamakee County in 2012, all sales in Harpers Ferry in 2012, the five highest sales for Harpers Ferry in 2011, and numerous property record cards for other residential properties. (Exhibits 4-18, 20). Regarding the property record cards, the Peiffers selected these to compare for similarities or to note differences. (Exhibits 8-18, 20). We find these documents offer general property information, which does not specifically apply to the Peiffers’ claims. Ron Peiffer identified the highest sales as condominium properties located on Sandy Point Road, which sold in 2011 for between \$175,000 and \$208,750. Since they assert the condominiums are not comparable to their property, the Peiffers contend this information is irrelevant to their property value. The Peiffers believe the nineteen sales in Harpers Ferry in 2012 do not justify an increase in their assessed value. (Exhibit 5). We note that only four of those properties sold for less than their assessed value, while the majority sold for more than their assessment which indicates a pattern of under-assessment.

The Peiffers also calculated the percentage of increase in select property assessments as compared to their increase. (Exhibit 22 & 23). We lack information to determine whether these properties are reasonably comparable to the Peiffers' property, and simply charting assessments over time is not a reliable method to judge equitability. Additionally, the Peiffers calculated the assessed value per-acre of other riverfront properties as compared to their property. The assessments are calculated based on an effective-front-foot value, not a per-acre value. The Peiffers' land is assessed at a unit price of \$1,100 per effective-front-foot similar to the unit pricing of the Jennerman, Fisk, and Schaefer sites. (Exhibits 11-13). The Peiffers are also critical of the 15% map multiplier applied to the value of their land. This multiplier was not applied to in-town properties, but was uniformly applied to all riverfront properties. (Exhibit 22). This evidence indicates all similar riverfront properties were treated equitably.

Additionally, the Peiffers claim there is an error in the living area listed in the assessor's records. They believe the correct figure should be 1681 square feet. However, we note that the assessor has added the 1681 square feet on the main floor and the 150 square-feet of living quarters above the garage to arrive at the 1837 square-foot total listed on the property record card. Accordingly, we find no error in the assessment.

The Peiffers submitted an appraisal completed by Merlin Studt, Preferred Appraisal Services, Decorah. (Exhibit 4). The appraisal was ordered for the Peiffers' tax assessment appeal and has an effective date of January 1, 2013. (Exhibit 4). Studt characterizes the area as a rural community with recreational influences and discusses the marketing time for different types of properties. He also noted the property to the north of the subject has an ingress/egress easement that prevents Peiffers from parking on their driveway. The easement allows the Peiffers use of their attached garage, but limits use of the driveway area. He also reports that a portion of the subject property is located in a flood zone.

Studt completed the sales comparison and cost approaches to value the subject property. In the sales approach to value, Studt used four comparable properties that sold between November 2011 and September 2012. All of the properties are one-story dwellings like the subject. Two properties are similar in age to the subject property but the remaining two are significantly older (35 to 50 years old). All are less than four miles from the subject property in Harpers Ferry. Sale prices ranged from \$230,000 to \$393,000. Studt adjusted the sale prices to account for differences in location, site size, construction quality, age, condition, living area, basement size and finish, garage size, and other amenities. We note, however, that the site size adjustments appear inconsistent and lack explanation. Studt reports a 10% difference in the sales prices between riverfront and non-riverfront properties based on historic matched-pair data. He adjusted upward for the properties that were river view or rural sites, as opposed to river front sites by roughly \$30,000 to \$40,000, which was approximately 10% of their sales price.

Studt gave the greatest weight to Comparable #1, which he indicated is almost identical to the subject property except it is not located on the river. This property had a sale price of \$279,000 and an adjusted sale price of \$287,300. He arrived at adjusted sale prices of \$281,300 to \$299,500 for the comparable sales and concluded a value of \$290,000 for the subject property. Studt also completed the cost approach to value and concluded a value of \$297,073 by that method. He gave most weight to the sales approach and determined a final value conclusion of \$290,000 for the subject property as of January 1, 2013.

Assessor Ann Burkhart prepared a side-by-side cost comparison of the five properties the Peiffers had identified in several exhibits. (Exhibit C). She listed the cost of various physical characteristics of the improvements using the IOWA REAL PROPERTY APPRAISAL MANUAL. (Exhibit C). We note, the two properties with assessed values less than the Peiffers' assessment (308 N 4th

Street & 2103 Timber Ridge Lane), are older, have less living area, have smaller garages and lack geothermal heating, which resulted in a lower replacement costs than the Peiffers' property.

In response to the Peiffers complaint that their assessment had been increased annually, Burkhart explained that the assessment was based on estimated base cost information in 2011 when it was newly constructed. Subsequently in 2012, the assessor's office physically inspected the property and the assessment was adjusted accordingly. As an example, the inspection revealed the Peiffers had geothermal heating system, which costs roughly \$7400 more than a conventional system, and was reflected in the increased 2012 assessment. Then in 2013, the assessment was increased due to a county-wide reassessment.

Burkhart testified that all sales in Harpers Ferry were analyzed before the 2013 reappraisal. The analysis indicated a median assessment/sales ratio of 78.02, which would indicate that properties were under assessed and were selling for more than their assessments. (Exhibit B). Based on this analysis, the 2013 assessed values were increased. Burkhart raised the assessments of riverfront properties more than non-riverfront properties based on the sales data, which is evident in the map multiplier used for improvements on riverfront properties like the Peiffers'. The Peiffers' property had a map multiplier of 0.850 in 2012. Whereas, the map factor on Peiffers' property record card and other riverfront properties was increased to 1.000 in 2013. (Exhibits 1, 11, 12, 13, 18 & A).

The Board of Review also submitted appraisals completed by Michael J. Morey of Michael J. Morey Appraisals, LLC, Lansing, and one completed by Wilfred Ament, Ament Appraisals, Waukon. (Exhibits D & E).

Morey's appraisal was completed for financing purposes. Using the sales comparison approach, Morey concluded a value of the subject property of \$400,000 as of June 17, 2011. Because the Studt and Ament appraisals value the property as of the assessment date and the Morey appraisal

reflects a date that is 18-months prior to the assessment, we will not review the Morey appraisal and give it no weight.

Wilfred Ament completed the sales comparison and cost approaches and concluded a value of \$310,000 for the subject property as of January 1, 2013.

Ament noted the subject property is in a flood zone, but a 14-foot high retaining wall was built at the lower part of the lot, filled, and the house was built above the wall. Ament states the subject property has some quality features, such as electric geo-thermal heating and cooling. He also noted the easement preventing parking on the driveway and reported a recent survey shows improvements to their neighbor to the north encroach on the subject land by two-to-three feet.

In the sales approach to value, Ament used six comparable properties, all but one of which sold less than a year before the assessment date. He noted that all of the properties were located on the river or had a good river view and no location adjustment was necessary. Three of the properties are one-story ranches like the subject; the other comparables include a one-story condominium, a one-and-one-half-story, and two-story dwelling. The properties vary greatly in age, ranging from less than 10-years to over 100-years old. Sale prices ranged from \$225,000 to \$393,000. Ament adjusted the sale prices to account for differences in site size, construction quality, condition, living area, basement size and finish, garage size, and other amenities. Ament noted that \$1000 per front foot was used to adjust the sites for Sales 1, 3, 5, and 6. After adjustments, the sales indicated a range in value for the subject property of \$296,460 to \$319,290. Ament concluded a value of \$310,000. We note, that Ament's appraisal and the assessment both adjusted for the geothermal heating, whereas Studt's appraisal did not consider this factor. This omission contributed to Studt's opinion of value being lower than Ament's.

Ron Peiffer testified Harpers Ferry is not an urban area and has a population of roughly 300 people with no schools, stores, or clinics. He is critical of Ament's appraisal because it uses a

condominium sale, which he does not believe is comparable to the subject property. Peiffer also reports Ament's appraisal lists a carport, when Comparable #2 actually had a 28 X 40 square-foot garage when it sold.

Peiffer observed the net adjustments in Ament's appraisal ranged from 12.3% to 38.8% and the gross adjustments ranged from 30.1% to 70.7%. He comments that two of the comparable properties are in Lansing, Iowa, which is more than 12 miles from the subject property. Peiffer reported his bank rejected the original 2011 appraisal because it had more than 15% net adjustments or 25% gross adjustments, and because of the distance of the comparable properties from the subject property. Whether a particular lender accepted or rejected an appraisal for financing, however, is not relevant to this assessment appeal as lenders may have their own financing guidelines. Moreover, that appraisal is not before this Board. Peiffer also identified a Harpers Ferry sale property that Ament failed to use as a comparable.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. Peiffers did not complete an assessment/sales ratio to support their claim of inequity. A comparison of all riverfront properties in Harpers Ferry showed the land values were calculated similarly using a uniform effective-front-foot price. Likewise, while the map multiplier was lower in non-waterfront properties, Peiffers' property and other riverfront properties

were treated uniformly. The Peiffers did not prove by a preponderance of the evidence that their property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Two appraisals were offered and concluded reasonably similar values, which are both less than the subject property's assessed value, and demonstrate the subject property's 2013 assessment is excessive.

Turning to the question of the property's correct value, we find the Studt failed to account for the geothermal heating system existing on the property in his sales approach. Likewise, it would appear he applied inconsistent adjustments, or at the very least unexplained adjustments, to the site sizes of the comparable properties, which we are unable to reconcile based on the information provided in the appraisal. Additionally, we cannot determine whether he accounted for the geothermal system in his cost approach, and he applied extraordinary obsolescence in his cost approach that is not explained.

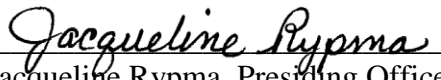
On the other hand, Ament did account for the geothermal heating. He also used the same number of comparable sales from Harpers Ferry as Studt, and his net adjustments were in a similar range as the net adjustments in Studt's appraisal. We conclude, therefore, that the Ament appraisal is the best indicator of the subject property's correct fair market value for the 2013 assessment year, which is \$310,000.

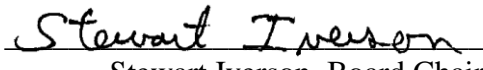
The Peiffers also claim there is a clerical or mathematical error in the assessment regarding the square feet of living area in the dwelling under 441.37(1)(a)(4). The assessor's measurement added the living quarters above the garage to the main floor living area to arrive at the total living area figure. Therefore, evidence does not support their claim or error in the assessment.

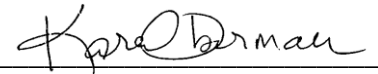
THE APPEAL BOARD ORDERS that the January 1, 2013, assessment as determined by the Allamakee County Board of Review is modified to \$310,000.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Allamakee County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 16th day of April, 2015.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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